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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,289	10/24/2003	Ahmed Hassan Mohamed	13768.783.115	2352
47973 7590 03/21/2008 WORKMAN NYDEGGER/MICROSOFT 1000 EAGLE GATE TOWER 60 EAST SOUTH TEMPLE SALT LAKE CITY, UT 84111				
EXAMINER				
NAWAZ, ASAD M				
ART UNIT		PAPER NUMBER		
2155				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/693,289

Applicant(s)

MOHAMED ET AL.

Examiner

ASAD M. NAWAZ

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to the amendments filed 12/21/2007. Claims 1, 8-11, 13, 21, 24, 31, 36, 41 and 43 were amended. Claim 6 was canceled. Accordingly, claims 1-5 and 7-44 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-40 are rejected under 35 USC 101. The claimed invention is directed to non-statutory subject matter. The computer readable medium is directed towards data structure per se and a carrier wave.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data. Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se. Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759. Furthermore, claims 1, 21, 31, 36 attempt to claim both a method and a computer readable medium. The specification (paragraph 0024) also states that a computer readable medium may

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comprise carrier wave, signal, or data structure. All of these do not meet the statutory class of invention.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 41-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, these claims recite language such as "adapted to" or "configured to". These terminologies render the claim indefinite as the scope of the claim becomes open ended, undeterminable, and/or based upon intended use. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitations.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-44 are rejected under 35 U.S.C. 103(a) as being anticipated by Boyle (US Patent No. 6,279,054).

As to claim 1, Boyle teaches a computer-readable medium having computer-executable instructions, comprising: receiving a request to open a file, the file having state information associated therewith (col 8, lines 47-57); in response to the request, sending a first handle to use to access data in the file and at least part of the state information associated therewith, the first handle having access rights to the file (col 4, lines 44-50); sending a resume key by which a duplicate handle may be requested, the duplicate handle having access rights to the file that correspond to the first handle; receiving the resume key and a request for a duplicate handle to the file (col 1, line 65 to col 2, line 10); sending the duplicate handle in response to the request for a duplicate handle; and providing access to the file via the duplicate handle (col 3, line 1-19). It would have been obvious to one of ordinary skill in the art at the time of invention to use a second channel to open a second/duplicate handle to the file.

As to claim 2, Boyle teaches the computer-readable medium of claim 1, wherein the state information includes a mode in which the file is opened (col 4, lines 34-55).

As to claim 3, Boyle teaches the computer-readable medium of claim 2, wherein the mode includes at least one of read only, read/write, a lock, and a mode in which the file is opened for exclusive use by the handle and any duplicates thereof (col 6, line 9-20).

As to claim 4, Boyle teaches the computer-readable medium of claim 3, wherein the lock comprises a range that indicates bytes of the file that can only be accessed by the first handle and any duplicates thereof (abstract).

As to claim 5, Boyle teaches the computer-readable medium of claim 1, further comprising authenticating a client that sends any request (col 5, lines 1-11).

As to claim 7, Boyle teaches the computer-readable medium of claim 1, wherein the request to open a file is sent over a first channel and the request for a duplicate handle to the file is sent over a second channel (col 4, lines 34-55).

As to claim 8, Boyle teaches the computer-readable medium of claim 7, wherein unencrypted information is sent over the first channel and encrypted information is sent over the second channel (abstract).

As to claim 9, Boyle teaches the computer-readable medium of claim 7, wherein the channels pass through a single network interface on a single client (col 7, lines 45-65).

As to claim 10, Boyle teaches the computer-readable medium of claim 7, wherein the channels pass through at least two interfaces on a single client (col 7, lines 45-65).

As to claim 11, Boyle teaches the computer-readable medium of claim 7, wherein the first channel is disconnected and wherein the file remains open afterwards (col 6, lines 2-40).

As to claim 12, Boyle teaches the computer-readable medium of claim 11, wherein the resume key is received after the first channel has become disconnected (abstract).

As to claim 13, Boyle teaches the computer-readable medium of claim 7, wherein the first channel is disconnected and wherein the file remains open afterwards at least until another client requests access to the file (col 4, lines 34-55).

As to claim 14, Boyle teaches the computer-readable medium of claim 13, wherein if the other client requests access to the file before a time has expired, the other client is denied access to the file (col 7, lines 45-65).

As to claim 15, Boyle teaches the computer-readable medium of claim 13, wherein if the other client requests access to the file after the time has expired, the file is closed and the other client is granted access to the file (col 7, lines 45-65).

As to claim 16, Boyle teaches the computer-readable medium of claim 15, wherein the client is informed that the file has been accessed by another client after the client sends the resume key with a request for a duplicate handle (abstract).

As to claim 17, Boyle teaches the computer-readable medium of claim 13, wherein after the resume key is received, the client is informed that the file has not been changed by another client (col6, lines 9-20).

As to claim 18, Boyle teaches the computer-readable medium of claim 1, wherein the request to open the file is sent from a first client and the duplicate handle is sent to a second client (abstract).

As to claim 19, Boyle teaches the computer-readable medium of claim 18, wherein the first client sends the duplicate handle to the second client (abstract).

As to claim 20, Boyle teaches the computer-readable medium of claim 18, wherein the second client receives the duplicate handle from a server that provides access to the file (abstract).

Claims 21-44 present no further limitations above claims 1-20 and thus are rejected under similar rationale.

Response to Arguments

8. Applicant's arguments filed have been fully considered but they are not persuasive. More specifically the applicant argues that A), Boyle does not teach the access of files residing on a server and B), Boyle does not teach communicating over multiple channels.

In response to A, at the onset, it should be noted that not all claims contain this limitation (i.e. claim 31). Also, claims such as 1-40 do not specify that a client is carrying out this procedure. Nevertheless, Boyle teaches the use of ISDN (col 8, lines 60-63). Applicant should be aware that claimed subject matter not the specification is the measure of the invention. Disclosure contained in the specification cannot be read into the claims for the purpose of avoiding prior art. In re Sporck, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1986); In re Self, 213 USPQ 1, 5 (CCPA 1982); In re Priest, 199 USPQ 11, 15 (CCPA 1978).

In response to B, the rejection has been modified to reflect teachings pertaining to this argument.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asad M. Nawaz whose telephone number is (571) 272-3988. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMN

/saleh najjar/

Supervisory Patent Examiner, Art Unit 2155